

DOCKET NO: 251117US2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
TATSUNORI KANAI, ET AL. : EXAMINER: TANG, K.
U.S. PATENT NO. : 7,657,890 :
ISSUED: FEBRUARY 2, 2010 : GROUP ART UNIT: 2195
FOR: SCHEDULING SYSTEM AND :
METHOD IN WHICH THREADS FOR
PERFORMING A REAL-TIME
OPERATION ARE ASSIGNED TO A
PLURALITY OF PROCESSORS

PETITION UNDER 37 C.F.R. § 1.182

TO WITHDRAW A RECORDED TERMINAL DISCLAIMER

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants hereby petition to withdraw a recorded Terminal Disclaimer after issuance of the above-identified patent application, and to replace the Terminal Disclaimer with a new, corrected Terminal Disclaimer identifying the correct patent, under the provisions of M.P.E.P. § 1490-VII-B.

Turning to the facts in this case, during prosecution of the above-identified patent application, a non-final Office Action issued on March 6, 2009, forming a rejection of the claims under the non-statutory, obviousness-type, double patenting doctrine, against the issued and co-owned U.S. Patent No. 7,418,705. (See March 6, 2009 Office Action, p. 2, ll. 27-28, see U.S. Patent No. 7,418,705 to Kanai et al., having the Assignee Kabushiki Kaisha Kaisha. See Reel 015666, Frame 0644 of the USPTO assignee recordation.) Moreover, the Office Action included rejections of the claims under 35 U.S.C. § 103(a). (Id., at p. 16, ll. 1-

3.) In response, Applicants filed a Terminal Disclaimer together with an amendment and arguments towards patentability of the claims on May 26, 2009. Due to an inadvertent mistake, the May 26, 2009 Terminal Disclaimer erroneously identifies U.S. Patent No. 7,418,706 as the patent where the patent term had to be disclaimed against of, which is a totally unrelated patent invented by Luo et al., and originally assigned to NCR Corporation. (See Reel 014061, Frame 0881 of the USPTO assignee recordation.) The case issued on January 13, 2010 to allowance.

M.P.E.P. 1490-VII-B, dealing with the withdrawal of a recorded Terminal Disclaimer, provides that “[w]here a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37 C.F.R. § 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a corrected terminal disclaimer having the correct patent number.”

Accordingly, Applicants hereby petition to withdraw the recorded Terminal Disclaimer of May 26, 2009, and to replace the Terminal Disclaimer with the attached new, corrected Terminal Disclaimer identifying U.S. Patent No. 7,418,705 as the target patent, to have an effective Terminal Disclaimer on file against the non-statutory obviousness-type double patenting rejection.

The required petition fee of \$400.00 is paid herewith by credit card. If any variance exists between the amount due and the amount paid herewith, please charge or credit the difference to our Deposit Account No. 15-0030.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



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